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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/805,091

03/19/2004

William Finlay McWalter

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04/09/2008

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EXAMINER

BRIER, JEFFERY A

ART UNIT

PAPER NUMBER

2628

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/805,091	<b>Applicant(s)</b> MCWALTER ET AL.	
	<b>Examiner</b> Jeffery A. Brier	<b>Art Unit</b> 2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7 and 21 is/are allowed.
- 6) ☒ Claim(s) 9-12 and 14-20 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on 01/17/2008 has been entered. The claim amendments overcome the 35 USC 112 first and second paragraph rejections set forth in the office action mailed on 12/26/2007. However, the claim amendments introduce new 35 USC 112 second paragraph issues in claims 9-12 and 14-20 which are discussed below.

### ***Response to Arguments***

2. Applicant's arguments filed 01/17/2008 have been fully considered but they are not persuasive to overcome the new 35 USC 112 second paragraph issues in claims 9-12 and 14-20 due to the 01/17/2008 claim amendments.

### ***Claim Objections***

3. Claim 8 is objected to because of the following informalities:

claim 8 claims "The user interface manager of claim 7" while claim 7 claims "The system of claim 6", thus, claim 8 incorrectly refers to parent claim 7 by claiming to be dependent upon an element of claim 7 rather than being dependent upon claim 7 as a whole. 37 CFR v1.75 (c). Appropriate correction is required.

MPEP 608.01(n) [R-5] Dependent Claims

#### **III. INFRINGEMENT TEST**

The test as to whether a claim is a proper dependent claim is that it shall include every limitation of the claim from which it depends (35 U.S.C. 112, fourth paragraph) or in other words that it shall not conceivably be infringed by anything which would not also infringe the basic claim.

The preamble of claim 8 only refers to "The user interface manager of claim 7" while claim 7 claims "The system of claim 6", thus, claim 8 claims less than claim 7.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 9-12 and 14-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9:

At lines 6 and 7 "image data" and at line "updated image data" is claimed and the wherein clause was amended to claim "the draw manager manages updating of the display screen and relieves a carlet application executing in the telematics client and the carlet application defined to be in communication with an application executing tin the telematics server from managing the updating of the display screen" . Claim 9 does not clearly claim the source of the "image data" and at line "updated image data". Claim 1 at line 3-6 claims the source of the image data by claiming "the use interface defined to display a data that is being received from an application executing in a telematics server, the data being received form the application executing in the telematics server via a carlet application running in the telematics client".

Claim 10:

This claim does not correct the indefinite issue present in claim 9.

Claim 11:

This claim does not correct the indefinite issue present in claim 9 even though at line 3 "capture a next image data" is claimed since the source of the "next image data" is not set forth in the claim language.

Claim 12:

This claim does not does not correct the indefinite issue present in claim 9 even though at line 2 "the captured updated image data" and at lines 3-4 "the captured update image data" is claimed since the source of the "captured updated image data" is not set forth in the claim language. Any amendments made to the parent claim need to be refelected in both occurrences of this claim's "the captured update image data"

Claim 14:

Similar to claim 9 the source of the "first image data" at line 6 and the second image data" at line 13 is not clear since at lines 8-10 this claim was amended to claim "the application buffer being configured to receive a data from an application executing in the telematics server through the carlet application" but does not correlate the "a data" to the "first image data" and the second image data".

Claims 15-20:

These claims do not correct the indefinite issue present in claim 9.

***Allowable Subject Matter***

6. Claims 1-7 and 21 allowed. Claim 8 would be allowable if amended to overcome the objection.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 1:

The prior art of record fails to teach or suggest “the use interface defined to display a data that is being received from an application executing in a telematics server, the data being received form the application executing in the telematics server via a carlet application running in the telematics client” and “a draw manager in communication with the graphics processor to manage updating of the display panel and to relieve the carlet application from managing the updating of the display panel” and “an application buffer, located at the telematics client, in communication with the draw manager, the application buffer configured to received the image data from the carlet application and the carlet application configured to receive the data from the application executing in the telematics server” in the context of claim 1.

7. Claims 9-12 and 14-20 are unclear for the reasons given above and the metes and bounds are unclear, thus, an indication of allowability would be premature. In re Steele, 305 F.2d 859,134 USPQ 292 (CCPA 1962) (it is improper to rely on speculative assumptions regarding the meaning of a claim and then base a rejection under 35 U.S.C. 103 on these assumptions)

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A. Brier whose telephone number is (571) 272-7656. The examiner can normally be reached on M-F from 7:30 to 4:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (571) 272-7664. The fax phone Number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jeffery A. Brier/  
Primary Examiner, Division 2628